

**LYNCHBURG CITY COUNCIL
Agenda Item Summary**

MEETING DATE: **July 13, 2004**

AGENDA ITEM NO.: 12

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Conditional Use Permit (CUP) – Fill Within 100 Year Flood Plain, 1200 Graves Mill Road**

RECOMMENDATION: Approval of the requested Conditional Use Permit.

SUMMARY: Home Depot, Inc., is petitioning for a Conditional Use Permit (CUP) at 1200 Graves Mill Road to allow fill within the 100 Year Flood Plain.

- There would be no net rise in the elevation of the 100 Year Flood Plain from the proposed fill.
- The petition agrees with the Comprehensive Plan which recommends a Community Commercial use for the subject property.
- Petition agrees with the Zoning Ordinance in that fill within the 100 Year Flood Plain is permitted upon approval of a CUP by the City Council.
- Petition proposes the construction of a home improvement retail facility.

PRIOR ACTION(S):

- June 24, 2004: Planning Division recommended approval of the CUP.
Planning Commission recommended approval 5-0 (with 2 members absent) of the CUP with the following conditions:
1. The property will be developed in substantial compliance with the site plan prepared by Wiley & Wilson, Inc. dated June 16, 2004.
 2. The petitioner will attain a Letter of Map Revision (LOMAR) from the Federal Emergency Management Agency (FEMA) for the subject fill.
 3. Stormwater runoff from the site will be managed through the construction of two (2) stormwater retention ponds. The ponds will be fitted with water quality outlets and fountains to promote both settling and aeration of pollutants.

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn / 455-3902
Tom Martin / 455-3909

ATTACHMENT(S):

- Resolution
- PC Report
- PC minutes
- Vicinity Zoning Pattern
- Vicinity Land Use
- Site plans
- Speaker Sign Up Sheet

REVIEWED BY: lkp

RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO HOME DEPOT, INC., FOR USE OF THE PROPERTY AT 1200 GRAVES MILL ROAD TO PLACE FILL MATERIAL WITHIN A 100 YEAR FLOOD PLAIN, SUBJECT TO CERTAIN CONDITIONS.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG That the petition of Home Depot, Inc., for a Conditional Use Permit for use of the property at 1200 Graves Mill Road to place fill material within a 100 Year Flood Plain be, and the same is hereby, approved, subject to the following conditions:

1. The property will be developed in substantial compliance with the site plan prepared by Wiley & Wilson, Inc. dated June 16, 2004.
2. The petitioner will attain a Letter of Map Revision (LOMR) from the Federal Emergency Management Agency for the subject fill.
3. Stormwater runoff from the site will be managed through the construction of two (2) stormwater retention ponds. The ponds will be fitted with water quality outlets and fountains to promote both settling and aeration of pollutants.

Adopted:

Certified:

Clerk of Council

090L

The Department of Community Planning & Development
City Hall, Lynchburg, VA 24504 434-455-3900

To: Planning Commission
From: Planning Division
Date: June 23, 2004
Re: **CONDITIONAL USE PERMIT (CUP): 1200 Graves Mill Road**

I. PETITIONER

The Home Depot, 3096 Hamilton Boulevard, South Plainfield, NJ 07080

Representative: Timothy Wagner, Wiley & Wilson, 2310 Langhorne Road, Lynchburg, VA 24501

II. LOCATION

The subject property is a tract of 21.11 acres located at 1200 Graves Mill Road.

Property Owner: Creekside of Lynchburg, P.O. Box 638, Lynchburg, VA 24505

III. PURPOSE

The purpose of this petition is to allow for fill within the 100-year floodplain for the construction of a home improvement retail facility.

IV. SUMMARY

- Petition agrees with the Comprehensive Plan, in that commercial retail uses are permitted in Community Commercial districts.
- Petition agrees with the Zoning Ordinance in that commercial retail uses are permitted in B-5C General Business Districts.
- Petition proposes the construction of a new home improvement retail facility.

The Planning Division recommends approval of the CUP petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends a Community Commercial use for the subject property. Community Commercial uses are described in the *Comprehensive Plan* as areas that "contain clusters of businesses, often at major intersections, and shopping centers that range from 100,000 to 200,000 square feet and serve 40,000 to 70,000 people".

The Natural Systems Lynchburg *Comprehensive Plan* further recommends limiting new development in the floodplain, since the FEMA 100-year floodplain maps are no longer accurate. The petitioner has updated the flood model section for the FEMA map of Tomahawk Creek and submitted a Conditional Letter of Map Revision for the project that demonstrates that there is no net increase in the stream's 100-year flood elevation. In addition, the model also demonstrates that the triple-box culvert under the Lynchburg Expressway will cause the floodwaters to "back up" on The Home Depot site rather than passing the flood volumes on to downstream properties. All wetlands that are to be disturbed during construction will be mitigated on-site.
2. **Zoning.** The subject property was annexed into the City in 1976. The existing B-5C, General Business District zoning was established on January 12, 1999 with the adoption of the rezoning for the subject property. The submitted petition does not propose to change the existing B-5 (conditional), General Business District zoning.
3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the proposed building and parking additions.
4. **Surrounding Area.** The following items have required City Council approval in the immediate area.
 - On January 12, 1999, Lynchburg City Council approved Petrie, Dierman & Kughn's petition to rezone 65 acres from B-5, General Business District and R-4, Multi-Family Residential District to B-5 (conditional), General Business District for the construction of a shopping center at the intersection of Creekside Drive and Graves Mill Road.

- On January 12, 1999 Lynchburg City Council approved Petrie, Dierman & Kughn's CUP petition to allow fill within the 100-year floodplain to permit construction of a shopping center at the intersection of Creekside Drive and Graves Mill Road.
- On December 8, 1987, Lynchburg City Council approved a petition from Hutter Associates, Inc. to rezone 31.5 acres from R-1, Single Family Residential to B-5 (conditional), General Business District and approximately 32.5 acres from R-1, Single Family Residential District to R-4, Multi-Family Residential District, to allow for the speculative development of both areas at Graves Mill Road and Route 291.

5. **Site Description.** The subject property is a tract of 21.11 acres that is currently undeveloped. The site is bounded to the north by an undeveloped tract, to the east by the Lynchburg Expressway and to the west and south by a combination of business offices.
6. **Proposed Use of Property.** The purpose of this petition is to allow for fill within the 100-year floodplain for the construction of a 132,874 square foot home improvement retail facility. The site will include a 104,886 square foot building, a 27,988 square foot garden center and a 502 space parking area.
7. **Storm Water Management.** New impervious areas will exceed 1,000 square feet; as such, a stormwater management plan will be required for the construction. Stormwater management for the Home Depot site will be accomplished through the use of two wet retention ponds. Preliminary drainage calculations indicate that the receiving channel is adequate for the site's stormwater.

Stormwater quality for the site will be addressed through a combination of Best Management and Low-Impact Development Practices. Each pond will be constructed with a water quality orifice to allow pollutant settling prior to discharge; the ponds will also be fitted with floating fountains to provide for aeration of the stormwater. The discharge from both ponds will be routed to the wetlands which will be mitigated on-site adjacent to Tomahawk Creek. The site also uses Low-Impact Design Standards in the form of parking reduction. The alternative site design reduces the proposed parking from the original design by 29% and replaces the impervious spaces with landscaped areas.

8. **Impact.** The proposed development will require approximately 282,000 cubic yards of fill for the construction of the retail facility. Of this volume, 126,224 cubic yards or 45% will be filled within the 100-year floodplain. The impacts of the fill were evaluated using the HEC-RAS model; the result is a "no net rise" in the flood elevation of Tomahawk Creek. A summary of these findings are attached. In addition, the model demonstrates that the triple-box culvert that allows Tomahawk Creek to pass under the Lynchburg Expressway will restrict the flood volume causing it to back up on the Home Depot site rather than being passed on to downstream properties. In summary, the impacts of the proposed fill will be minimal.

The findings of the model have been submitted for a Conditional Letter of Map Revision (CLOMR) to the Federal Emergency Management Agency [FEMA]. Although the CLOMR does not change the 100-year floodplain map, it does prompt FEMA to issue an opinion as to whether or not the building will be outside of flood zone. A copy of the CLOMR application is attached. Once the project has been constructed, the applicant may apply for a Letter of Map Revision (LOMR). Once FEMA has completed their review of the LOMR they will document an official update to the 100-year floodplain maps.

New impervious areas for the proposed project will exceed 1,000 square feet; therefore, a stormwater management facility for quantity management will be required for the project to prevent additional surface runoff from entering Tomahawk Creek. Since the stormwater will be managed through retention pond facilities, a combination of Best Management Practices (BMPs) and Low Impact Design Standards will be used to improve water quality of the stormwater runoff from the site.

9. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on Tuesday, May 18th, 2004. Comments related to the proposed additions were minor in nature and have or will be addressed by the developer prior to final site plan approval.
 10. **Conditions.** According to Section 35.1-15 (f) of the Zoning Ordinance, the Planning Commission or City Council may impose any conditions deemed necessary or appropriate in approving a CUP.
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VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of The Home Depot for fill within the 100-year floodplain for the construction of a home improvement retail facility in a B-5C, General Business District, subject to the following conditions.

- 1. The property will be developed in substantial compliance with the site plan prepared by Wiley & Wilson, Inc. dated June 16, 2004.**
- 2. The petitioner will attain a Letter of Map Revision (LOMR) from the Federal Emergency Management Agency for the subject fill.**
- 3. Stormwater runoff from the site will be managed through the construction of two (2) stormwater retention ponds. The ponds will be fitted with water quality outlets and fountains to promote both settling and aeration of pollutants.**

This matter is respectfully offered for your consideration.

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. Bruce A. McNabb, Director of Public Works
Mr. R. Douglas Dejarnette, Fire Marshal
Ms. Judith C. Wiegand, Senior Planner
Mr. J. Lee Newland, Director of Engineering
Mr. Gerry L. Harter, Traffic Engineer
Mr. Bob Drane, Building Commissioner
Mr. Arthur L. Tolley, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Mr. Kent L. White, Environmental Planner
Mr. Tim Wagner, Petitioner/Representative

VII. ATTACHMENTS

1. Vicinity Zoning Pattern - (see attached map)
2. Vicinity Proposed Land Use - (see attached map)
3. Site Plan - (see attached site plans)
4. HEC-RAS Flood Model Elevation Summary Sheet – (see attached chart)
5. Conditional Letter of Map Revision – (see attached application)

MINUTES FROM THE JUNE 23, 2004 PLANNING COMMISSION MEETING

The minutes have been reviewed by staff, but not the Planning Commission

Petition of Home Depot Inc. for a Conditional Use Permit at 1200 Graves Mill Road to allow filling in the 100-year flood plain.

Mr. Martin told the Commission that on January 12, 1999, the City Council approved a Conditional Use Permit to allow fill in the flood plain at this site. However, he said, the Conditional Use Permit had lapsed, which has resulted in the need for a new Conditional Use Permit to allow that fill to occur. He said the petition today was only related to fill in the flood plain. He added that the zoning necessary to allow the construction of the associated home improvement facility was already in place and had been previously approved by the City Council. Mr. Martin said that while the Comprehensive Plan recommended limiting development within the flood plain, the petitioner had updated the flood model section for the FEMA map for Tomahawk Creek and the model demonstrated that there was "no net rise" in the flood levels along this section of the creek. He noted that any fill would not result in additional flood volume down stream and any wetlands that would be disturbed would be mitigated. He concluded that the Planning Division recommended approval of the CUP petition.

Mr. Tim Wagner introduced Mr. Philip Banton, both of Wiley & Wilson, Mr. Richard Van Veldhuisen of Greenberg-Ferro, and Mr. Ted Craddock, local attorney, who are all on the development team for this project. Mr. Wagner said with the development of the Home Depot project they realized they would be dealing with flood plain issues, and to do that one of the first steps was to obtain a copy of the HEC 2 Model, which is a flood model that FEMA uses to determine the elevation of the 100-year flood plain. He said their base data had very few cross sections; one near the 501 Expressway and one near Graves Mill Road. As part of the design process, he added, they gathered more detailed survey information, which allowed them to create more cross sections along Tomahawk Creek. He said they then entered those new cross sections in the HEC 2 model, ran the model based on that information to get an "as is" condition. He said they entered the proposed elevations for the development of the store and ran the model again to determine where they needed to make adjustments so they could avoid creating a net rise in the 100-year flood elevation. Mr. Wagner said with the first run of the model they had a small amount of rise in a few areas. He said because they had to mitigate some of the wetland losses on site, they were looking at creating some mitigation areas between the developed area of Tomahawk Creek, which meant they will scoop out some of the material to lower the elevation and develop those into wetland mitigation areas. He said the consultant involved in the project was the Williamsburg Environmental Group, and added that they were currently working on the mitigation plan, which would be submitted to the City at a later date. Mr. Wagner said that helped them get back some of the volume they had displaced with fill while building the building. He explained that when they re-ran the model with the new cross sections they came up with "no net rise" in flood elevations. He added that one thing that helped them on the lower end of Tomahawk Creek was an existing triple box culvert under the 501 Expressway, which worked as a restriction to the flow of Tomahawk Creek and backed the water up onto the site. Mr. Wagner explained that their fill did very little to increase the flood elevations. Basically, he said, they could develop the site with "no net rise" to the flood elevation.

Mr. Louis Litchford, owner of Piedmont Fleet Services, spoke on behalf of his company as well as Framatome and Taylor Brothers. Mr. Litchford said the only concern they had was that the relocation of Old Graves Mill Road was coordinated with the opening of Home Depot to help with the traffic flow. He explained that Framatome had between 500-800 employees, depending on the time of year, his business ran between 150 trucks in and out every day, Taylor Brothers had approximately 30 tractor trailers delivering every day, plus their route trucks back and forth every day. Mr. Litchford shared a copy of the road relocation schedule with the Commissioners.

Commissioner Flint asked about the acreage disturbed with the wetlands mitigation. He asked if the developers were concerned about traffic and when Home Depot planned to occupy the store.

Mr. Wagner said he was currently trying to set up a meeting with a representative of the Williamsburg Environmental Group, an attorney working with that group on the wetland permitting issues, the local DEQ office and the Army Corp of Engineers to discuss the mitigation. He said there was always a strategy of "Avoid, Minimize, and Mitigate". In this case, he said, they could not avoid as much as they hoped, and now

have to mitigate. He said more than likely it would be a one for one, maybe a two to one. One thing in their favor, he added, was that they do have room for on-site mitigation. He said that would help with their mitigation negotiations.

Mr. Wagner said the City of Lynchburg would have to address the realignment of Old Graves Mill Road. He said they could control Home Depot's schedule, but could not address the City's schedule. He added that the plan was to occupy the store in the second half of 2005.

Mr. Kent White, Environmental Planner for the City, addressed the Commission concerning the petition. Mr. White explained that the reason the Planning Division supported this petition solely on the 100-year flood issue is that when Mr. Wagner and Wiley & Wilson updated the model they were actually able to put more detailed topography into the model than was originally applied in 1978. At that time, he explained, they were running on 10 or 20 foot contours, but Mr. Wagner and Mr. Banton were able to apply 2 foot contours, which gave them a much more accurate description of what the flood actually does in that area. He said an added bonus was that the City's culvert at the Expressway causes the water to actually back up on Home Depot's property, so the idea of any downstream impact is negated simply because Home Depot will have to deal with it. Mr. White said they had also worked with them on an alternative stormwater design so they actually have less surface water runoff. He said they were really proud of the cooperative effort on this project, and added that this could possibly be the model design for "big box" retail in Lynchburg. He said Home Depot had also incorporated two wet ponds on either side of the building. He explained that both ponds would use floating fountains which would provide aeration and nutrient reduction, with the discharge going to the newly mitigated wetlands which would provide a further flushing and cleansing. Mr. White concluded that they had reduced their total number of parking spaces by as much as 29% from the original proposed amount.

Commissioner Echols asked what would be protecting the site during the moving of 283,000 cubic yards of dirt.

Mr. White said although they had not seen the erosion and sediment control plan, what they would encourage was a two step process. He said the ponds on either side of the building would be used to catch the majority of the surface runoff before it hit the large fill slope. The second thing, he continued, was by use of diversions along the tops of the slopes to keep the water from completely running over, so the only water that would hit on the critical area would be what actually fell during a rain storm. He said they could also use blanket style matting or polymers to bind the soil particles along the slope. Mr. White noted that according to the construction schedule it appeared that the moving of the dirt would hopefully be done during the non-rainy times of the year. He concluded that the two ponds on the sides of the site would originally be used for sediment storage and ultimately be used for stormwater management.

Mr. Louis Robertson, Facilities Manager at Areva, addressed the Commission. He said in early 2001 they went through the same situation worrying about traffic on Mill Ridge Road. He said they had a gentleman's agreement with the City of Lynchburg that if they made some capital investments to the property the City would construct the road. At this point, he said, Areva had made about \$4.5 million to the Mill Ridge Road facility, but the road still had not gone through. He said he knew there were budget concerns, but they felt like a deal was a deal. Mr. Robertson said they wanted Home Depot to move to Lynchburg, but they did not want the traffic problems they think will come with the store. He encouraged the Planning Commission to do something to accelerate the road project.

Chair Dahlgren said the Planning Commission did not have any jurisdiction over the timing of the road project. He said they sympathize with the situation, but their decision today was based solely on the flood plain. However, he said, any comments made by citizens at this meeting have gone into the record and that record would in turn be passed on to City Council.

Commissioner Echols asked what would happen if Home Depot decided to expand.

Mr. Wagner said this prototype would not have to be expanded for a time frame of seven to ten years. He said there may be a little room on this site for expansion, but they would have to relocate one of the stormwater facilities and purchase additional property if they ever expanded.

Commissioner Flint said he was concerned about traffic even though they were here to consider the fill in the flood plain. He said he was not sure the City would stick to the road construction schedule shared at this meeting even though the Graves Mill extension was needed now. He said he would like to see the City at least make that extension, and added that some intersection improvements were needed, too.

Chair Dahlgren said it was a shame that the City has taken so long to back up what they said they were going to do. He said they would do anything they could do to encourage the City to move forward with the road improvements.

Commissioner Hamilton asked if Home Depot was obligated in any way to help the City improve the intersection.

Mr. Martin said the City was currently in discussions with Home Depot about what road improvements they will do. But, he said, it was his understanding that the rezoning on the other side of Graves Mill Road was the City's responsibility. He said the City had plans to make those improvements starting with the Mill Ridge portion, which should be done by sometime next year. He added that the Graves Mill extension will be completed sometime in 2006/2007.

Commissioner Hamilton said they had done an excellent job with their site plan and mitigation.

Commissioner Pulliam agreed. He said he was sorry they could not be more vocal about the traffic because he agreed that the road improvements should be completed at about the same time Home Depot opened its store.

After discussion, Commissioner Echols made the following motion, which was seconded by Commissioner Pulliam and passed by the following vote:

"That the Planning Commission recommends to the City Council approval of the petition of The Home Depot for fill within the 100-year floodplain for the construction of a home improvement retail facility in a B-5C, General Business District, subject to the following conditions.

4. The property will be developed in substantial compliance with the site plan prepared by Wiley & Wilson, Inc. dated June 16, 2004.
5. The petitioner will attain a Letter of Map Revision (LOMR) from the Federal Emergency Management Agency for the subject fill.
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AYES: Dahlgren, Echols, Flint, Hamilton, Pulliam

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NOES:

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ABSTENTIONS:

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